



MIKE PENCE, *Governor*  
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMra14010031

[REDACTED],  
Complainant,

v.

HONDA MANUFACTURING OF INDIANA,  
Respondent.

### NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred in this instance. 910 IAC 1-3-2(b).

On January 21, 2014, [REDACTED] ("Complainant") filed a Complaint with the Commission against Honda Manufacturing of Indiana ("Respondent") alleging discrimination on the basis of race in violation of [REDACTED] the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) Accordingly, the Commission has jurisdiction over the parties and the subject matter. An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was demoted because of her race. In order to prevail, Complainant must show that: (1) she is a member of a protected class; (2) she suffered an adverse employment action; (3) she was meeting Respondent's legitimate business expectations; and (4) similarly-situated employees of another race were treated more favorably under similar circumstances. It is evident that Complainant is a member of a protected class by virtue of her race, African-American, and undisputed that she suffered an adverse employment action when she was demoted on or about July 26, 2013; however, sufficient evidence exists to believe that Complainant was meeting Respondent's legitimate business expectations and that similarly-situated employees of another race were treated more favorably under similar circumstances.

By way of background, Respondent hired Complainant as a production associate on or about August 3, 2009 and promoted her to the position of Fixed Asset Accountant on or about April



11, 2013. At all times relevant to the Complaint, Respondent asserts it told Complainant that her status would be probationary for at least her first year in the role; however, Complainant alleges that no probationary period existed and that her performance would be reviewed on several intervals up to a year. During the time relevant to the Complaint, Respondent alleges that Complainant failed to meet its legitimate business expectations and demoted her back to a production assistant on or about July 26, 2013; however, witness testimony asserts that Complainant was meet Respondent's expectations. Specifically, evidence shows that after the demotion, Complainant spoke with a member of Respondent's associate relations team who investigated the matter and recommended that Complainant be reinstated as there was nothing in her file to support the demotion or the assertion that she was not meeting Respondent's legitimate business expectations. Moreover, the witness asserts that a promoted employee usually had up to 18 months to improve their performance before being demoted unless gross misconduct occurred, while Complainant was demoted after less than four months. It is important to note that Respondent has not asserted Complainant's alleged infractions rose to the level of gross misconduct. While Respondent has tendered a document to the Commission noting Complainant's performance deficiencies, the document is undated, provides no specific date of Complainant's performance deficiencies, and contains no information identifying who created the document, when it was created, or substantiating that Complainant received or was informed about the document. Moreover, Complainant alleges that she was never counseled regarding her performance.

While Complainant alleges she was provided less training than another Caucasian employee, there is insufficient evidence to substantiate that claim; nonetheless, Respondent has provided evidence showing that it promoted and demoted a similarly-situated Caucasian employee for poor job performance. However, it is imperative to note that the Caucasian employee stayed in the promoted position for a period of six months and had numerous documented job performance deficiencies before facing demotion. Simply stated, there is sufficient evidence to show that Complainant was treated less favorably than similarly-situated Caucasian employees and that Respondent's proffered rationale for Complainant's demotion is pretext for unlawful discrimination on the basis of race. As such and based upon the aforementioned, probable cause exists to believe that an unlawful discriminatory practice occurred in this instance.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. Ind. Code §22-9-1-16, 910 IAC 1-3-6.

November 21, 2014

Date

Akia A. Haynes

Akia A. Haynes, Esq.

Deputy Director

Indiana Civil Rights Commission